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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DANIELLE WARD, on behalf of themselves and all other
similarly situated,

x
: Civil Action No. 1:23-cv-00069

:

Plaintiffs,

: **ANSWER**

-against-

:

BESPOLITAN INC. and ELEGANT COMFORT INC.,

:

Defendants.

:

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Defendants, by their attorneys, Abrams Fensterman, LLP, as and for their Answer to the
Complaint herein, allege as follows:

1. Defendants neither admit nor deny the allegations contained in paragraph “1” of the Complaint, except deny Plaintiffs’ characterization of Defendants’ practices as false and deceptive.
2. Defendants deny the allegations contained in paragraph “2” of the Complaint.
3. Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph “3” of the Complaint.
4. Defendants deny the allegations contained in paragraph “4” of the Complaint.
5. Defendants deny the allegations contained in paragraph “5” of the Complaint.

6. Defendants neither admit nor deny the allegations contained in paragraph “6” of the Complaint and refer all questions of law to the Court.

7. Defendants neither admit nor deny the allegations contained in paragraph “7” of the Complaint and refer all questions of law to the Court.

8. Defendants neither admit nor deny the allegations contained in paragraph “8” of the Complaint and refer all questions of law to the Court.

9. Defendants deny the allegations contained in paragraph “9” of the Complaint, except deny knowledge and information sufficient to form a belief as to Plaintiffs’ residence.

10. Defendants admit the allegations contained in paragraph “10” of the Complaint.

11. Defendants admit the allegations contained in paragraph “11” of the Complaint.

12. Defendants neither admit nor deny the allegations contained in paragraph “51” of the Complaint.

13. Defendants admit the allegations contained in paragraph “13” of the Complaint, except deny that Defendants represented their products contained a “1500 Thread Count.”

14. Defendants deny the allegations contained in paragraph “14” of the Complaint.

15. Defendants deny the allegations contained in paragraph “15” of the Complaint.

16. Defendants deny the allegations contained in paragraph “16” of the Complaint.

17. Defendants deny the allegations contained in paragraph “17” of the Complaint.

18. Defendants deny the allegations contained in paragraph “18” of the Complaint.

19. Defendants deny the allegations contained in paragraph “19” of the Complaint.

20. Defendants deny the allegations contained in paragraph “20” of the Complaint.

21. Defendants deny knowledge and information sufficient to form a belief as to the

allegations contained in paragraph “21” of the Complaint.

22. Defendants deny the allegations contained in paragraph “22” of the Complaint.
23. Defendants deny the allegations contained in paragraph “23” of the Complaint.
24. Defendants deny the allegations contained in paragraph “24” of the Complaint.
25. Defendants neither admit nor deny the allegations contained in paragraph “25” of the Complaint, and refer all questions of law to the Court.
26. Defendants neither admit nor deny the allegations contained in paragraph “26” of the Complaint, and refer all questions of law to the Court.
27. Defendants neither admit nor deny the allegations contained in paragraph “27” of the Complaint, and refer all questions of law to the Court.
28. Defendants neither admit nor deny the allegations contained in paragraph “28” of the Complaint, and refer all questions of law to the Court.
29. Defendants neither admit nor deny the allegations contained in paragraph “29” of the Complaint, and refer all questions of fact and law to the Court.
30. Defendants neither admit nor deny the allegations contained in paragraph “30” of the Complaint, except deny that Defendants represented their products contained a “1500 Thread Count.” All questions of law and fact are referred to the Court.
31. Defendants neither admit nor deny the allegations contained in paragraph “31” of the Complaint, and refer all questions of law to the Court.
32. Defendants neither admit nor deny the allegations contained in paragraph “32” of the Complaint, and refer all questions of law to the Court.
33. Defendants neither admit nor deny the allegations contained in paragraph “33” of

the Complaint, and refer all questions of law to the Court.

34. In response to the allegations in paragraph 34, Defendants repeat and re-allege each of the foregoing responses as if fully set forth hereat.

35. Defendants neither admit nor deny the allegations contained in paragraph “35” of the Complaint.

36. Defendants neither admit nor deny the allegations contained in paragraph “36” of the Complaint.

37. Defendants deny the allegations contained in paragraph “37” of the Complaint.

38. Defendants deny the allegations contained in paragraph “38” of the Complaint.

39. Defendants deny the allegations contained in paragraph “39” of the Complaint.

40. Defendants deny the allegations contained in paragraph “40” of the Complaint.

41. Defendants deny the allegations contained in paragraph “41” of the Complaint.

42. Defendants admit the allegations contained in paragraph “42” of the Complaint.

43. In response to the allegations in paragraph “43”, Defendants repeat and re-allege each of the foregoing responses as if fully set forth hereat.

44. Defendants neither admit nor deny the allegations contained in paragraph “44” of the Complaint.

45. Defendants neither admit nor deny the allegations contained in paragraph “45” of the Complaint.

46. Defendants deny the allegations contained in paragraph “46” of the Complaint.

47. Defendants deny the allegations contained in paragraph “47” of the Complaint.

48. Defendants deny the allegations contained in paragraph “48” of the Complaint.

49. Defendants deny the allegations contained in paragraph “49” of the Complaint.

50. Defendants deny the allegations contained in paragraph “50” of the Complaint.

51. Defendants deny the allegations contained in paragraph “51” of the Complaint.

52. In response to the allegations in paragraph “52”, Defendants repeat and re-allege each of the foregoing responses as if fully set forth hereat.

53. Defendants neither admit nor deny the allegations contained in paragraph “53” of the Complaint.

54. Defendants deny the allegations contained in paragraph “54” of the Complaint.

55. Defendants deny the allegations contained in paragraph “55” of the Complaint.

56. Defendants deny the allegations contained in paragraph “56” of the Complaint.

57. Defendants deny the allegations contained in paragraph “57” of the Complaint.

AS AND FOR A FIRST SEPARATE AND COMPLETE DEFENSE

58. The Complaint fails to state a cause of action upon which relief may be granted.

AS AND FOR A SECOND SEPARATE AND COMPLETE DEFENSE

59. Plaintiffs do not have personal jurisdiction over Defendants in this matter.

AS AND FOR A THIRD SEPARATE AND COMPLETE DEFENSE

60. Defendants did not use any deceptive or misleading marketing to sell their products.

AS AND FOR A FOURTH SEPARATE AND COMPLETE DEFENSE

61. Plaintiffs cannot establish or satisfy the requirements for a class action and, therefore, the class action allegations of the Complaint should be stricken.

AS AND FOR A FIFTH SEPARATE AND COMPLETE DEFENSE

62. Plaintiffs’ claims for damages are barred or limited by Defendants’ good faith

efforts to comply with applicable law.

AS AND FOR A FIFTH SEPARATE AND COMPLETE DEFENSE

63. The Complaint fails to state a claim upon which either pre judgment or post-judgment interest or attorneys' fees may be awarded.

AS AND FOR A SIXTH SEPARATE AND COMPLETE DEFENSE

64. Plaintiffs have not suffered damages, or in the alternative have failed to mitigate their damages.

RESERVATION OF RIGHTS

Defendants give notice that they intend to rely on any additional Affirmative Defenses that become available or apparent during discovery and thus reserve the right to amend this Answer to assert such additional defenses.

JURY DEMAND

Pursuant to Fed. R. Civ. Proc. 38(b), Defendants demand a trial by jury.

WHEREFORE, Defendants pray that the Court:

1. Dismiss the Complaint, in its entirety, with prejudice;
2. Deny each and every demand, claim and prayer for relief contained in the Complaint;
3. Award Defendants their reasonable attorneys' fees and costs incurred in defending

against this meritless and vexatious action; and grant such other and further relief as the Court deems just and proper.

Dated: April 14, 2023

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